

EXHIBIT 16

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

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4
5 LOUISE PARIS, LTD., and RAINBOW)
USA, INC.,)

6 Plaintiffs,)

7 vs.)

8 STANDARD FABRICS INTERNATIONAL,)
9 INC.,)

10 Defendants.)

11 STANDARD FABRICS INTERNATIONAL,)
12 INC.,)

13 Counter-Claimants,)

14 vs.)

15 LOUISE PARIS, LTD. and RAINBOW)
USA, INC.,)

16 Counter-Defendants.)

17
18 - NON-CONFIDENTIAL PORTION -19
20 30(b)(6) DEPOSITION OF JACOB ZAKARIA

21 Los Angeles, California

22 Monday, November 2, 2015

23
24 Reported by: Judith Schlussel

CSR No. 4307

25 NDS Job No.: 176417

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6 Plaintiffs,)

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14 vs.)

15 LOUISE PARIS, LTD. and RAINBOW)
USA, INC.,)16 Counter-Defendants.)
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19
20 30(b)(6) DEPOSITION OF JACOB ZAKARIA,

21 taken at 777 South Figueroa Street, Suite 4400,

22 Los Angeles, California 90017, commencing at

23 10:40 a.m., on Monday, November 2, 2015, before

24 Judith Schlussel, CSR No. 4307.
25

1 MR. BARRETT: Yes. And the label. And the
2 tag.

3 MR. ULIN: We can look at that when we're off
4 the record. I want to keep going on the examination.
5 If I'm mistaken about it, then we'll come back and ask
6 you about those. If I'm not, then that's something we
7 need to follow up on.

8 Q. BY MR. ULIN: With respect to design 7851, is
9 that a fabric design that Standard Fabrics designed
10 itself or one that you purchased from a design house?

11 A. We designed it ourselves.

12 Q. Who designed it?

13 A. I believe this was designed by Turia.

14 Q. And when did she design it?

15 A. I don't know off the top of my head.

16 MR. ULIN: Let's mark Exhibit 6. I'll come
17 back to some of those questions about the design.

18 (Deposition Exhibit No. 6 was marked for
19 identification.)

20 Q. BY MR. ULIN: Mr. Zakaria, have you seen
21 Exhibit 6 before?

22 A. Yes.

23 Q. Do you recognize this as the copyright
24 registration that Standard Fabrics claims covers design
25 7851?

1 A. Yes.

2 Q. What is it about Exhibit 6 that leads you to
3 believe that it covers design 7851?

4 A. Well, you're providing it to me as a part of
5 the documents in this case. And the registration number
6 corresponds with what is on the other documents.

7 Q. When you say the registration number
8 corresponds to the other documents, you mean that the
9 registration number on the Certificate of Registration
10 from the copyright office is the same registration
11 number that is listed on the cease-and-desist letter
12 that your counsel sent to Louise Paris and to Rainbow;
13 is that correct?

14 A. Correct.

15 Q. Is there anything in the registration
16 certificate that indicates that this covers design 7851?

17 MR. BARRETT: I'll object as vague.

18 Q. BY MR. ULIN: You may answer.

19 A. The title of the work is Spring Summer 2014
20 Collection 1. I'm assuming that this pattern 7851 is
21 for that collection.

22 Q. Is this pattern 7851 for that collection?

23 A. Yes.

24 Q. Do you know that?

25 A. I -- I feel strongly that that is the case.

1 Q. What is it that makes you feel strongly that
2 that is the case? I know you were sort of hesitant in
3 the answer.

4 MR. BARRETT: Same objection.

5 THE WITNESS: We provided it to you as that.
6 We're pretty accurate about the information that we
7 provide.

8 Q. BY MR. ULIN: Are you the person at Louise
9 Paris who is responsible for --

10 A. I don't work at Louise Paris.

11 Q. Thank you. I misspoke. Are you the person at
12 Standard Fabrics who oversees copyright registrations?

13 A. No, I'm not.

14 Q. Who is?

15 A. I oversee the person that does it.

16 Q. Who is the person that does it?

17 A. Cindy, who also handles, works in our Encad
18 department.

19 Q. What is her last name?

20 A. I can't -- let me tell you exactly right now.

21 MR. BARRETT: If you can make a best guess at
22 it, then --

23 THE WITNESS: I'm drawing a blank right now.
24 I'm sorry. There are a couple of Cindys.

25 Q. BY MR. ULIN: But you are the person who

1 certified the application for the copyright
2 registration, correct?

3 A. Yes. I overlook what Cindy does.

4 Q. Do you know whether anything was submitted to
5 the copyright office that would indicate that design
6 7851 was covered, or intended to be covered by this
7 copyright?

8 MR. BARRETT: Objection; vague and ambiguous.
9 It's unclear as asked and seeks a legal conclusion.

10 Q. BY MR. ULIN: You may answer.

11 A. Yes. I would assume so, because we provide an
12 image of the artwork along with the collection.

13 Q. Do you know whether an image of 7851 was
14 submitted to the copyright office --

15 A. Yes.

16 Q. -- in connection with the application for --

17 A. Yes.

18 Q. I need to finish my question. Do you know
19 whether a copy of an image of design 7851 was submitted
20 to the copyright office in connection with the
21 application for the copyright that is reflected in
22 Exhibit 6?

23 A. Yes.

24 Q. How do you know that?

25 A. That is a perfunctionary [sic] measure. We do

1 that on all of them, all of our copyrights.

2 Q. You keep records of the materials that you
3 submitted to the copyright office in connection with the
4 applications?

5 MR. BARRETT: Same objections.

6 THE WITNESS: I believe that they are done
7 electronically. So there is a record.

8 Q. BY MR. ULIN: Okay. Is there a record in --
9 well, so I believe the answer to my next question is
10 yes. Let me just back up.

11 Was the record of what was submitted in
12 connection with the application for the copyright that
13 is in Exhibit 6 produced in response to our request for
14 documents in this case?

15 MR. BARRETT: Same objections. For
16 clarification, the copyright registration certificate.

17 Q. BY MR. ULIN: You may answer.

18 A. I don't know, but I would imagine so.

19 MR. ULIN: Mark Exhibit 7.

20 (Deposition Exhibit No. 7 was marked for
21 identification.)

22 Q. BY MR. ULIN: Have you seen Exhibit 7 before,
23 Mr. Zakaria?

24 A. I believe so.

25 Q. And do you recognize this as the Certificate of

1 Q. Why do you say that they're different types of
2 documents?

3 A. Because they are.

4 Q. What makes you say that?

5 A. Well, for one, they look different to me.
6 That's all.

7 Q. Because the title is the only thing appearing
8 on the first page on Exhibit 7 and the title doesn't
9 take up much space and there is other information
10 appearing on the first page of Exhibit 6. Is that what
11 makes them look different?

12 MR. BARRETT: I'll object, misstates prior
13 testimony.

14 THE WITNESS: I don't know. I'm going to take
15 a wild guess for you right now, pretty good guesses
16 though. I think one of them was done electronically and
17 one of them was done by mail. And they're different
18 requirements.

19 Q. BY MR. ULIN: Which one was done electronically
20 and which was done by mail?

21 A. So I believe that the copyright office, U.S.
22 copyright office post 2011, they made a requirement that
23 copyrighting be done online exclusively.

24 Q. When Standard Fabrics applied for the copyright
25 reflected in Exhibit 6, the one ending in 565 --

1 A. Uh-huh.

2 Q. -- did you submit a list to the Copyright
3 Office of all of the designs that were in the spring
4 summer collection that was to be copyrighted?

5 A. I would imagine so.

6 Q. Did you submit images of all of those
7 copyrighted designs?

8 A. I would imagine so.

9 Q. And those -- you say you imagine so. Do you
10 know so?

11 A. As a matter of protocol, that's how we
12 copyright all of our artwork. So based on that, I would
13 say strongly that yes, that's the case.

14 Q. And you -- I believe you testified earlier that
15 your understanding is there should be a record of what
16 was submitted to the copyright office in connection with
17 the application for the copyright and registration shown
18 in Exhibit 6 in your files at Standard Fabrics?

19 A. Yes. I would imagine that's the case, yes.

20 Q. That should include a listing of all of the
21 designs that were subject to the collection copyright,
22 correct?

23 A. I think I mentioned that we do these online, so
24 there has got to be some sort of a trail, you know,
25 showing those specifications as you just mentioned.

1 Q. Okay. And if those -- if that trail as you put
2 it, the list of designs and examples of the designs that
3 were submitted to the copyright office was not produced
4 in this litigation, does that suggest that it's not part
5 of your records?

6 MR. BARRETT: Objection. Same objections.

7 THE WITNESS: I don't know.

8 Q. BY MR. ULIN: I'll represent to you that it's
9 not in the materials that was produced to our office.
10 Can you explain that?

11 MR. BARRETT: Same objections.

12 THE WITNESS: I cannot explain it.

13 Q. BY MR. ULIN: At the risk of asking a question
14 which I may have asked before, how do you know 7851 is
15 actually covered by registration 894-565 that is
16 reflected in Exhibit 6?

17 A. Because that's what we provided to you.

18 Q. Did you refer to something in your files that
19 allows you to make that conclusion?

20 A. Yes. I imagine that this was the registration
21 attached to the artwork 7851. We keep close record of
22 those.

23 Q. Okay. And those were not produced to my
24 office. So if I wanted to see that record, how would I
25 go about doing that?

1 Q. Ms. Ostling is someone you've identified as the
2 person who designed style 7851, right?

3 A. Yes, that's correct.

4 Q. How do you know that?

5 A. How do we know that?

6 Q. Yes. How do you know that?

7 A. Well, for every artwork that is made by one of
8 our designers, they create an internal registration
9 form. Before we copyright anything, we require them to
10 show us how they made the artwork, reference previously
11 copyrighted artwork or from the design books that we
12 purchase. There are design books that are purchased
13 from which you can extract motifs. We want to know
14 exactly how they made the artwork. Then it's signed off
15 on first by Lindsay who overlooks them immediately and
16 then it's brought over to me, and then I sign off on it.
17 And then only at that point do we register it and assign
18 a style number to it.

19 Q. And the record of that activity is what you
20 call an internal registration form?

21 A. That's right.

22 Q. And are those internal registration forms kept
23 in your company's records?

24 A. Yes.

25 Q. Where are they actually kept?

1 A. In our office.

2 Q. Are they electronic records or paper records?

3 A. They're paper records and at the time she may
4 have been getting paid hourly for her work, so I have to
5 take a look whether it's per artwork or hourly. But we
6 do have record.

7 Q. Okay. Did the manner in which you pay her
8 change at some time?

9 A. Turia used to work for us part time and, you
10 know, so yes, her pay has changed over time.

11 Q. You indicate in the front page of Exhibit 6 --
12 sorry. Just about halfway down the page, you indicate
13 that the copyrights, the designs that are subject to
14 copyright 1-894-565 are works for hire.

15 A. Uh-huh.

16 Q. What led you to say that?

17 MR. BARRETT: Objection. Legal conclusion.

18 Q. BY MR. ULIN: You may answer.

19 A. When speaking with -- when registering artwork,
20 we would speak with the Copyright Office and they would
21 ask us how the artwork was made and we would tell them.
22 Based on that, they would tell us how to fill out the
23 form.

24 Q. And with respect to the 2014 Collection, do you
25 recall what you told the Copyright Office about how that

1 was comprised?

2 A. No. We explain to them factually how it was
3 comprised and they told us how to fill it out.

4 Q. Turning back to Exhibit 13, let me just back
5 away from the exhibit for a minute.

6 Is it your agreement with Ms. Ostling that when
7 she creates designs that she sells you, you also
8 purchase all the intellectual property rights in those
9 designs?

10 A. Absolutely.

11 Q. Is she required to sell you all of the designs
12 that she produces?

13 A. All the designs that she produces for us, yes.
14 And she's not allowed to share that with anybody else;
15 not allowed to share that with anybody else. It is
16 exclusive to us.

17 Q. That's reflected both in paragraphs 2 and 4 of
18 Exhibit 13; is that correct?

19 A. I'd have to --

20 Q. Please.

21 A. Yes.

22 Q. Do you recall Ms. Ostling submitting design
23 7851 in 2013?

24 A. That goes to Lindsay. So she doesn't submit it
25 directly to me.

1 THE WITNESS: J-U-N-G.

2 MR. ULIN: Thank you.

3 Q. BY MR. BARRETT: Daniel, is that his given name
4 or is that a nickname?

5 A. I think that's his American name. I don't
6 know -- he's a Korean gentleman. I don't know what his
7 Korean name is.

8 Q. Now, what does Standard Fabrics do -- I know
9 there was some confusion earlier about you versus
10 Standard. What does Standard Fabrics do when it finds a
11 garment that it believes to be printed with an
12 infringing pattern?

13 A. 100 percent of the time what we do is we create
14 a file for that garment. In that file we place the
15 actual garment itself, we place a copy of the tags, all
16 the tags, all the labels as well as the receipt, as well
17 as all of the registration information pertaining to
18 that design.

19 Copies are made and all of them are put
20 together in one file 100 percent of the time as a matter
21 of procedure.

22 Q. So the copyright information, the documents
23 that you mentioned, that is pulled directly from
24 Standard Fabrics' archives regarding the registration of
25 the particular design that Standard believes to have

1 been infringed?

2 A. Yes.

3 Q. And for this case, was Exhibit 6 part of that
4 file?

5 A. Yes, it was.

6 Q. So is it Standard Fabrics' understanding that
7 the registration certificate marked as Exhibit 6
8 corresponds to the design at issue in this case?

9 A. Yes.

10 MR. ULIN: Asked and answered. Calls for
11 speculation. Lacks foundation. You may answer.

12 THE WITNESS: Yes, it does 100 percent. In
13 fact, I provided that and I pulled that from our records
14 and I forwarded it over to my counsel.

15 Q. BY MR. BARRETT: It's standard procedure for
16 Standard Fabrics to compile those files and then forward
17 on to counsel?

18 A. Absolutely, 100 percent of the time. That's
19 exactly how we've done it and that's exactly how we
20 continue to do it. It's never been any different.

21 Q. We mentioned, or we discussed earlier about the
22 profit margin --

23 A. Uh-huh.

24 Q. -- per yard.

25 The specific invoices that we reviewed don't

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this 16th day of November, 2015.

Judith Schlusssel

JUDITH SCHLUSSEL, CSR No. 4307